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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,732	03/08/2002	Hiroshi Kajiyama	3620-4014	5009

27123 7590 06/30/2005  
MORGAN & FINNEGAN, L.L.P.  
3 WORLD FINANCIAL CENTER  
NEW YORK, NY 10281-2101

EXAMINER
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BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/018,732

Applicant(s)

KAJIYAMA ET AL.

Examiner

Jenna-Leigh Befumo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The Amendment submitted on March 23, 2005, has been entered. Claims 1 – 4 and 12 – 75 have been cancelled. Claims 5 - 11 have been amended. Therefore, the pending claims are 5 – 11.
2. The amendment is sufficient to overcome the 35 USC 112 2<sup>nd</sup> paragraph rejection set forth in the previous Office Action.

### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 5 – 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over JP 10287735 A (English Translation) for the reasons of record.

This rejection is based on the English translation of the Japanese reference provided with this response and not just the abstract.

5. Claims 9 and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over JP 10287753 A in view of Matsui et al. (6,174,602) for the reasons of record.
6. Claim 11 stands rejected under 35 U.S.C. 103(a) as being unpatentable over JP 10287735A in view of Matsui et al. and *Wellington Sears Handbook of Industrial Textiles* (pages 57 – 60) for the reasons of record.

### ***Response to Arguments***

7. Applicant's arguments filed March 23, 2005 have been fully considered but they are not persuasive. The applicant argues that JP 10287735 A fails to teach producing a textile product

Art Unit: 1771

made from fibers which comprise at least 98 mol% lactic acid L-isomer and a specific relative viscosity (response, pages 4 – 7). First it is noted that JP 10287735 A discloses that the polymer composition described is used to make either molded compositions or textile products. There is no suggestion in the abstract or the translation that the polymer is molded into a textile product. Textile products by definition are materials made from fibers or yarns either, by weaving, knitting, or some other method which produces a nonwoven fabric. But no matter how the textile is produced it will inherently comprise fibers, filaments, or yarns. Thus, the polymer composition must inherently be extruded into fibers or filaments to form the woven, knitted, or nonwoven textile products.

Second, it is noted that both the Sn content and residual monomer content include the end point 0 which mean neither component need to be present in the composition. Thus, the prior art does not have to teach having these components. Further, it is noted that the applicant's repeated arguments that the prior art fails to teach producing improved heat resistance and excellent spinning operability is not commensurate in scope with the present claims since these features are not recited. Further, these properties would be inherent to a polymer composition having the same structure regardless of whether this feature is taught by the prior art or not.

Third, the applicant argues that less than 98 mol% of the lactic acid L-isomer would not produce sufficient properties. However, JP 10287735 A discloses that an L-isomer homopolymer of lactic acid can be used which would have 100% of the L-isomer and therefore, meet this limitation.

As set forth in the previous Office Action it would have been obvious to one having ordinary skill in the art to optimize the viscosity of the polymeric composition since the viscosity

Art Unit: 1771

is directly related to the processability of the polymer composition in the extrusion equipment. One of skill in the art would want to choose a viscosity which would allow the polymer to flow readily through the equipment while allowing films or fibers to form with good strength and structural properties. This would require basic experimentation to determine a viscosity range at which the polymer composition with the molecular weight described by JP 10287735 A would need to have to optimize the properties of the polymer while it is being extruded. Thus, the claimed features are addressed in the rejection. Again the applicant argues superior features which are not commensurate in scope with the present claims. Thus, the current rejections are maintained.

#### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

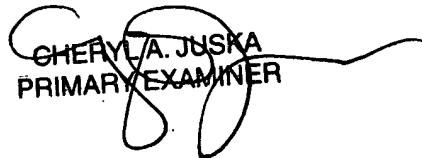
Art Unit: 1771

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jenna-Leigh Befumo  
June 23, 2005

  
CHERYL A. JUSKA  
PRIMARY EXAMINER